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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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7 SHIRLEY CONWAY,

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Plaintiff,

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vs.

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NORTHFIELD INSURANCE COMPANY,

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Defendant.

CASE NO. 18-cv-06407-YGR

**ORDER DENYING MOTION TO VACATE
SUMMARY JUDGMENT RULINGS AND
DISMISS ACTION WITH PREJUDICE**

Re: Dkt. No. 35

The Court is in receipt of plaintiff Shirley Conway and defendant Northfield Insurance Company's stipulated motion to vacate the Court's summary judgment rulings (Dkt. No. 31) and dismiss the action with prejudice pursuant to a settlement between the parties. (Dkt. No. 35 ("Motion").) In their motion, the parties seek vacatur, pursuant to Federal Rule of Civil Procedure 54(b), of the Court's July 16, 2019 "Order Granting Conway's Motion for Partial Summary Judgment; Denying Northfield's Cross-Motion for Summary Judgment" (Dkt. No. 31), noting that their agreement to jointly move for vacatur was "a significant factor in successfully resolving Conway's pending claims against Northfield." (Motion at 2.)

The Court finds that equitable considerations do not warrant vacatur in this case. *See John Simmons Co. v. Grier Bros. Co.*, 258 U.S. 82, 91 (1922) (noting that interlocutory orders may be revised when it is "consonant with equity" to do so); *American Games, Inc. v. Trade Products, Inc.*, 142 F.3d 1164, 1168 (9th Cir. 1998) (district court may vacate a judgment upon consideration of "the consequences and attendant hardships of dismissal or refusal to dismiss" and "the competing values of finality of judgment and right to re-litigation of unreviewed disputes") (citing *Dilley v. Gunn*, 64 F.3d 1365, 1370-71 (9th Cir. 1995)). While the Court recognizes that judicial policy generally favors settlement, *Guerrero v. RJM Acquisitions LLC*, 499 F.3d 926, 939 (9th Cir. 2007), here, that interest is outweighed by the Court's concerns over vacating a summary

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1 judgment order that addressed developing areas of law and may be useful to the public.
2 *See Bandcorp Mgmt. Co. v. Bonner Mall P'ship*, 513 U.S. 18, 26 (1994) ("Judicial precedents are
3 presumptively correct and valuable to the legal community as a whole. They are not merely the
4 property of private litigants and should stand unless a court concludes that the public interest
5 would be served by a vacatur.") (citation omitted); *Gardner v. CafePress Inc.*, No. 3:13-CV-1108-
6 GPC-JLB, 2015 WL 13427727, at *3 (S.D. Cal. Jan. 9, 2015) ("[T]he systemic implications of
7 granting pre-judgment settlement-contingent vacatur present serious concerns for 'the orderly
8 operation of the federal judicial system[.]'"') (quoting *Bonner*, 513 U.S. at 27).¹ Further, the Court
9 is not inclined to set a precedent that would invite litigants "to bring a case, lose in the district
10 court, settle with the winning party, and thereby have the trial court judgment vacated
11 automatically so as to clear the path for another 'test case' raising the same issues." *Blair v.*
12 *Shanahan*, 38 F.3d 1514, 1521 (9th Cir. 1994).

13 Accordingly, the parties' motion is **DENIED** with respect to their request to vacate the
14 Courts' summary judgment rulings. Because it is not clear whether settlement is contingent on the
15 Court vacating its summary judgment rulings, the parties are hereby **ORDERED** to submit a joint
16 statement providing the Court with an update on the status of the litigation no later than **August**
17 **23, 2019**. If the parties intend to continue litigating this dispute, said statement should contain a
18 proposal as to how to proceed on any unresolved issues in this case.

19 Further, a compliance hearing shall be held on the Court's **1:59 p.m.** calendar on **Tuesday,**
20 **August 27, 2019**, in Courtroom 1 of the United States Courthouse located at 1301 Clay Street in
21 Oakland, California. If the parties' statement is timely filed, the parties need not appear, and the
22 compliance hearing will be taken off calendar.

23 **IT IS SO ORDERED.**

24 Dated: August 12, 2019


25 **YVONNE GONZALEZ ROGERS**
26 **UNITED STATES DISTRICT COURT JUDGE**

27 ¹ Although *Bonner* concerned post-judgment vacatur under Rule 60(b), which generally is
28 subject to a higher standard than pre-judgment vacatur under Rule 54(b), Supreme Court precedent
in this related context is instructive.